

ARKANSAS COURT OF APPEALS

DIVISION II
No. CACR08-336

JAMES DICKERSON,

APPELLANT

V.

STATE OF ARKANSAS,

APPELLEE

Opinion Delivered JANUARY 14, 2009APPEAL FROM THE PULASKI COUNTY
CIRCUIT COURT,
[NO. CR 06-709]HONORABLE WILLARD PROCTOR, JR.,
JUDGEMOTION DENIED; REBRIEFING
ORDERED**KAREN R. BAKER, Judge**

A jury in Pulaski County Circuit Court convicted appellant James Dickerson of rape and sentenced him, as a habitual offender, to thirty-five years' imprisonment in the Arkansas Department of Correction. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), and Rule 4-3(j)(1) of the Rules of the Arkansas Supreme Court and Court of Appeals, Mr. Dickerson's counsel has filed a motion to withdraw on the grounds that this appeal is without merit. The clerk of this court provided Mr. Dickerson with a copy of his counsel's brief and notified him of his right to file a list of *pro se* points on appeal within thirty days. Mr. Dickerson has not exercised that right, and the State did not file a brief.

Mr. Dickerson's counsel's motion was accompanied by an abstract and brief purportedly discussing all matters in the record that might arguably support an appeal. We note, however, that Mr. Dickerson's counsel has not completely complied with Rule 4-3(j) in that the abstract does not

contain a discussion of two additional adverse rulings found at page 440 of the record, both of which were hearsay objections made by the State and sustained by the court. Furthermore, when counsel addressed many of the multiple adverse evidentiary rulings, counsel cited to the applicable rule of evidence, but followed the citation with only a cursory analysis without citation to explanatory case law. We cannot conclude, based on the brief before us, that the issues were wholly frivolous.

When an appeal is submitted to this court under the *Anders* format and we believe that an issue is not wholly frivolous, we are required to deny appellate counsel's motion to withdraw and order rebriefing in adversary form. *Tucker v. State*, 47 Ark. App. 96, 885 S.W.2d 904 (1994). Accordingly, we direct Dickerson's attorney to file a brief developing an adversarial presentation as to any issues that counsel may deem appropriate and direct our clerk to establish a new briefing schedule.

Counsel's motion to withdraw is denied.

Rebriefing ordered.

HART and ROBBINS, JJ., agree.